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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Colligan  
Serial Number: 10/662,935  
Filed: 9/15/2003  
Examiner: Prunner, Kathleen J.  
Group Art Unit: 3751  
Title: "Non-Rotatable Joints for Shower Head"

M/S AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**APPEAL BRIEF**

Dear Sir:

Appellant now submits this Appeal Brief pursuant to the Notice of Appeal filed November 22, 2005. Enclosed is a check for the appeal brief fee. Any additional fees or credits may be charged to or applied to deposit account number 50-1482 in the name of Carlson, Gaskey & Olds.

**Real Party in Interest**

The real party in interest is Resources Conservation, Inc. This company is ultimately owned by Masco Corporation.

**Related Appeals and Interferences**

There are no prior or pending appeals, interferences or judicial proceedings relating to this appeal, or which may directly effect or may be directly effected by, or have a bearing on, the Board's decision in this appeal.

### **Status of Claims**

Claims 1-6, 8-10, 12-14 and 16 are pending, rejected and appealed. Claims 7, 11 and 15 stand cancelled.

### **Status of Amendments**

No amendments after final rejection have been filed.

### **Summary of Claimed Subject Matter**

Claim 1 is the broadest independent claim. The claim requires a mount for a shower head. The shower head (20) has a first link (24) with a fluid passage for receiving water and delivering water to the shower head. The first link is connected to a second link (26) at a pivot joint (22). Each of the first and second links are provided with a pivot joint connection portion (see Figure 3). One of the pivot joint connection portions has an end wall (25) and a cup (32) extending from the end wall. A second of the pivot joint connection portions has an end wall and a cup (42) extending from the end wall. This second pivot joint portion has a hollow cylindrical member (27) which is to be received adjacent the cup 32. A threaded member (36) is fixed to be immovable relative to the end wall (25). The threaded member extends beyond the cup (32) (see Figure 3) such that the hollow cylindrical member can be brought adjacent to the cup, and a nut (44) then secured onto the threaded member (36) on an opposed side of the hollow cylindrical member (27) from the cup to secure the first and second links. The immovability of the threaded member is independent of the attachment of the nut. In fact, as shown, the threaded member is formed integral with the end wall.

In the prior art, a separate bolt has been utilized to secure a shower head. The separate bolt is often loosened, and thus allowed the shower head to pivot relative to the pivot joint. This was undesirable and solved by appellant's use of the immovably fixed threaded member.

Claim 6 requires that the cup has a cylindrically extending boss (68) and a ledge (70). The hollow cylindrical member has a cylindrically extending boss (72) and its own ledge (74). The cylindrically extending boss of the cup and the hollow cylindrical member interfit to define closely fitting and mutually contacting support surfaces.

The Board may look to paragraphs 16-20 which define all of the structure and explain the benefits.

### **Grounds of Rejection to be Reviewed on Appeal**

The rejection under 35 U.S.C. §112, second paragraph, of claims 2 and 9.

The claims all stand rejected over U.S. Patent 2,472,030 to Thulin combined with U.S. Patent No. 557,735 to Warren.

Claims 14 and 16 stand rejected over Thulin and Warren, combined with the further U.S. Patent 56,284 to Smith, et al.

Claims 9, 10 and 12 are rejected over Thulin and Warren and Judell and Smith, et al.

Notably, while claim 3 is rejected over Thulin and Warren taken with the further United States Patent to Wellington, claim 4 is rejected over Thulin and Warren further taken with the U.S. patent to Campbell, and claim 5 is rejected over Thulin and Warren further in view of the U.S. patent to Judell, none of these three rejections are being separately contested.

### **Argument**

#### **A. The rejection under 35 U.S.C. §112, second paragraph of claims 2 and 9 is Improper.**

The examiner argues that claims 2 and 9 are indefinite. The examiner argues that recitation of both a “pivot joint” and a “pivot joint connection portion” as found in the claim, renders the claim indefinite. The examiner’s sole argument is that the two elements are disclosed as a single element in the appellant’s disclosure. The examiner argues the metes and bounds of the claim language is thus indefinite.

However, the claim is simply broader by reciting the two elements than the disclosed embodiment wherein they are provided by a single component. There is nothing indefinite. One reading this claim would be able to determine what the claim covers. The disclosure of a single element providing both elements does not equate to a requirement that all claims be similarly limited.

**B. The Rejection of the Claims over Thulin Combined With Warren is Improper.**

First, the combination of the Warren reference with the Thulin patent is improper. Warren does not relate at all to a shower. Warren relates to a beer tap. The examiner is arguing that the use of a bolt which is formed with a structure, such as shown for example in Figure 3 of Warren, would be obvious in the Thulin environment. Warren is, however, so unrelated to the Thulin environment as to be non-analogous. There is no benefit nor function described for the Warren structure, and there is no suggestion to combine them. Appellant has solved a real world problem in the field of showers and is entitled to protection over these references.

Further, the fact that a similar pivot joint may be shown in Warren is irrelevant. The examiner argues that there is a suggestion “in order to facilitate tightening of the connection.” This “benefit,” however, is not disclosed in the art. The benefit can only be found in appellant’s disclosure. The examiner argues the benefit is “self-evident,” however, there is nothing evident about the benefit in the Warren reference. Simply, this rejection is supported solely on hindsight.

In fact, the unnumbered and unmentioned bolt in Warren may simply be a draftsman’s simplification. It seems an odd addition to not be mentioned if intended to be what the examiner alleges.

**C. The Rejection of Claims 6, 9, 10, 12, and 14 Over Thulin and Warren and Further Combined With Smith is Also Contested.**

The examiner suggests modifying the Thulin and Warren structure with the additional reference to Smith. The examiner argues that Smith discloses a pivot joint that would have a connection portion B and a boss h. The examiner then somehow suggests that this would suggest modifying the pivot joint of Thulin. However, Smith, et al. would not suggest any such change to the Thulin structure. Smith, et al. relates to a nozzle that can pivot about several axes relative to other parts of the nozzle. There is no reason why such a shape should be incorporated into the Thulin connection. The pivoting movement is decidedly different, and the adjustability of Smith, et

al. provides for a very distinct part both structurally and in its operation. There is no suggestion to combine these references.

The separate rejection of claims 9, 10 and 12 including teachings allegedly taught by the Judell reference is not separately contested. However, these claims are allowable for the fact that Smith is not properly combined here.

For the reasons set forth above, reversal of this rejection is in order.

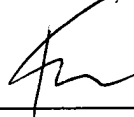
**D. Other Rejections.**

As mentioned above, the other rejections wherein the examiner proposes to combine additional references are not separately contested.

**CLOSING**

For the reasons set forth above, the rejection of the claims is improper and should be reversed. Appellant earnestly requests such an action.

Respectfully submitted,




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Dated: January 23, 2006

**CERTIFICATE OF MAIL**

I hereby certify that the enclosed Response is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 23rd day of January, 2006.

  
Laura Combs

**CLAIMS APPENDIX**

1. A mount for a showerhead comprising:

a showerhead having a first link with a fluid passage for receiving water and delivering water to said showerhead;

said first link being connected to a second link at a pivot joint, and said first and second links each being provided with a pivot joint connection portion, with one of said pivot joint connection portions having an end wall and a cup extending from said end wall, and a second of said pivot joint connection portions being a hollow cylindrical member to be received adjacent said cup, with a threaded member being fixed to be immovable relative to said end wall, and extending beyond said cup such that said hollow cylindrical member can be brought adjacent to said cup, with a nut then secured onto said threaded member on an opposed side of said hollow cylindrical member from said cup to secure said first and second links; and

wherein the immovability of said threaded member is independent of the attachment of said nut.

2. The mount arrangement as set forth in claim 1, wherein said first link is provided with said end wall, said cup, and said threaded member.

3. The mount system as set forth in claim 1, wherein a wing nut is utilized as said nut.

4. The mount assembly as set forth in claim 1, wherein a seal is placed between said cup and said hollow cylindrical member, and another seal is placed between said hollow cylindrical member and said nut.

5. The mount assembly as set forth in claim 1, wherein said second link is pivotally connected to a third link, with a second pivot joint being provided between said second and third links, said second pivot joint also including an end wall and a cup with a fixed threaded member on one of said second and third links, and the other of said second and third links including a

hollow cylindrical member to be brought adjacent to said cup, and to receive a nut to secure said cylindrical member to said cup by being tightened on said threaded member.

6. The mount assembly as set forth in claim 1, wherein said cup has a cylindrically extending boss and a ledge, and said hollow cylindrical member has a cylindrically extending boss and a ledge, with said cylindrically extending bosses of said cup and said hollow cylindrical member interfitting to define closely fit, and mutually contacting support surfaces.

8. The mount assembly as set forth in claim 1, wherein said threaded member has a non-uniform outer periphery, with a smaller portion aligned with the flow passage for passing fluid from said cup into said first link.

9. A mount for a showerhead comprising:

a showerhead having a first link with a fluid passage for receiving water and delivering water to said showerhead;

said first link being connected to a second link at a pivot joint, and said first and second links each being provided with a pivot joint connection portion, with one of said pivot joint connection portions having an end wall and a first cup extending from said end wall, and a second of said pivot joint connection portions being a hollow cylindrical member to be received adjacent said first cup, with a threaded member being immovably fixed to said end wall, and extending beyond said first cup, such that said hollow cylindrical member can be brought adjacent to said first cup, with a nut then secured onto said threaded member on an opposed side of said hollow cylindrical member from said first cup to secure said first and second links;

said second link is pivotally connected to a third link, with a second pivot joint being provided between said second and third links, said second pivot joint also including an end wall and a second cup with a threaded member immovably fixed on one of said second and third links, and another of said second and third links including a hollow cylindrical member to be brought adjacent to said second cup, and to receive a nut to secure said hollow cylindrical member to said second cup by being tightened on said threaded member;

each of said first and second cups having a cylindrically extending boss and a ledge, and each of said hollow cylindrical members having a cylindrically extending boss and a ledge, with said cylindrically extending bosses of said cups and said hollow cylindrical members interfitting to define closely fit, and mutually contacting support surfaces; and

wherein the immovability of said threaded members is independent of the attachment of said nuts.

10. The mount arrangement as set forth in claim 9, wherein said first and third links are provided with said end walls, said first and second cups, and said threaded members.

12. The mount assembly as set forth in claim 9, wherein said threaded members have a non-uniform outer periphery, with a smaller portion aligned with the flow passages.

13. A pivot connection for a shower comprising:

a pair of links, said links being hollow and allowing passage of water through said links to a showerhead;

one of said links including an end wall, with a cup extending from said end wall, and a threaded member immovably fixed to said end wall and extending through and beyond said cup;

the other of said links including a hollow cylindrical member abutting said cup, with a nut attached to said threaded member on an opposed side of said hollow cylindrical member from said cup, with said threaded member being immovably fixed to said end wall; and

wherein the immovability of said threaded member is independent of the attachment of said nut.

14. The pivot connection as set forth in claim 13, wherein said cup has a cylindrically extending boss and a ledge, and said hollow cylindrical member has a cylindrically extending boss and a ledge, with said cylindrically extending bosses of said cup and said hollow cylindrical member interfitting to define closely fit, and mutually contacting support surfaces.



16. The pivot connection as set forth in claim 13, wherein said threaded member has a non-uniform outer periphery, with a smaller portion aligned with a flow passage for passing fluid from said cup into one of said links.

**EVIDENCE APPENDIX**

None.

**RELATED PROCEEDINGS APPENDIX**

None.